

General Information Letter: Gain or loss on conversion of a common trust fund to a regulated investment fund not recognized for federal income tax purposes will not be recognized for Illinois income tax purposes.

November 8, 1999

Dear:

This is in response to your letter dated October 26, 1999 in which you state the following:

In so much as there is little statutory and regulatory information on the operation of common trust funds and less information available through the various tax services, would you be so kind as to reply to the following question:

QUESTION: Does Illinois recognize the tax-free conversion of a Common Trust Fund to a Regulated Investment Fund by following the Internal Revenue Code Section 584(h)(1), which reads:

- (h) Nonrecognition treatment for certain transfers to regulated investment companies.
 - (1) In general. If -
 - (A) a common trust fund transfers substantially all of its assets to one or more regulated investment companies to which such assets are so transferred, and
 - (B) such stock is distributed by such common trust fund to participants in such common trust fund in exchange solely for their interests in such common trust fund,
- no gain or loss shall be recognized by such common trust fund by reason of such transfer or distribution, and no gain or loss shall be recognized by any participant in such common trust fund by reason of such exchange.

Specifically, would a participant in a common trust fund (the participant would be, for example, a revocable trust created by a grantor resident in Illinois), resident in <state> be taxed on the transaction described above?

According to the Department of Revenue ("Department") regulations, the Department may issue only two types of letter rulings: Private Letter Rulings ("PLR") and General Information Letters ("GIL"). For your convenience, we enclose a copy of 2 Ill.Adm.Code §1200 explaining these two types of rulings issued by the Department.

Due to the nature of your inquiry and the information presented in your letter, we are required to respond with a GIL. GILs are designed to provide background information on specific topics. GILs, however, are not binding on the Department.

The Illinois Income Tax Act ("IITA") specifically refers to the Internal Revenue Code Section 584. According to Section 205(e) of the IITA, common trust funds described in Section 584 of the Internal Revenue Code "shall not be subject to the tax imposed by this Act". With respect to a transfer or distribution to a participant in a Section 584 common trust fund, Illinois currently follows

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federal law: any gain or loss from such exchange would not be recognized by any participant of such common trust fund. For your convenience, enclosed please find a copy of the above mentioned Section of the IITA.

As stated above, this is a general information letter which does not constitute a statement of policy that either applies, interprets or prescribes tax law. It is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Sincerely,

Heidi Scott
Staff Attorney -- Income Tax